HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE

AND

HON'BLE SHRI JUSTICE G.BHAVANI PRASAD

Writ Appeal No. 2505 of 2005

Between:

G.Madhava Rao s/o Yarraiah

R/o Kondamudusupalem village

Of Kandukuru Mandal,

Prakasam District .. Petitioner

AND

The District Scheduled Caste Cooperative

Corporation Ltd. Represented by its

President the District Collector,

Prakasam District and another ..Respondents.

JUDGMENT:

-

Counsel for the Appellant: Mr L.J.Veera Reddy

Counsel for the Respondents: Mr. Saka Mohan Rao

Dated: February 13, 2006

Per G.S.Singhvi, C.J.

This appeal under clause 15 of Letters Patent is directed against order dated October 18, 2005 passed by the learned Single Judge, whereby he dismissed the writ petition filed by the appellant in the matter of sanction of loans under Self Employment Scheme.

The appellant is an unemployed youth belonging to Scheduled Caste. In

pursuance of the Notification dated December 3, 2003 issued by District Scheduled Castes Cooperative Corporation Limited, Prakasam District (for short 'the Corporation'), he submitted an application for grant of loan for purchase of tractor. His name did not figure in the list of selected candidates. He filed an application before Lokayukta of Andhra Pradesh for directing the respondents to entertain his request for grant of loan. The same was dismissed by Upa-Lokayuktha of Andhra Pradesh vide his order dated July 26, 2005 on the ground that he does not satisfy the conditions enumerated in para 5 of Notification dated December 3, 2003. He then filed writ petition under Article 226 of the Constitution of India for issuance of a mandamus to the respondents to release the amount of loan for purchase of tractor. He averred that the committee headed by Joint Collector, Ongole had selected him and his name was forwarded to District Collector, Ongole in the last week of June 2003 but, later on, his name was deleted from the select list. The learned Single Judge dismissed the writ petition vide her order dated 18-10-2005. The relevant extract of that order is reproduced below:

> "Having heard the learned Counsel for the parties and having perused the material on record, I do not find any substance in the contentions of the writ petitioner. It is clear from the counter-affidavit filed on behalf of the respondents that the petitioner was not eligible for grant of loan since admittedly he did not possess the permanent driving licence as on the last date fixed for receipt of applications i.e., 15-12-2003. The petitioner does not dispute the said fact, but only contends that so far as grant of loans for the purpose of Tractor is concerned, possessing driving licence is not a condition precedent as per the Notification dated 3-12-2003. The said aspect has already been considered by the District Collector who is the competent authority to grant the loans under the Self-Employment Scheme and it was concluded that the petitioner was not eligible for grant of loan. I do not find any justifiable reason to interfere with such a decision of the competent authority in exercise of writ jurisdiction under Article 226 of the Constitution of India. Particularly in the absence of any allegation of mala fides and any material to show that the decision of the respondents was in violation of statutory provision, the interference by this Court is not at all warrant. That apart, the matter does not involve enforcement of any legal or statutory right since the loans in question were sought to be granted only under a scheme

which has no statutory force. Hence the interference under Article 226 of the Constitution of India is not warranted."

Sri L.J. Veera Reddy argued that the reason assigned by the learned Single Judge for declining relief to the appellant is legally unsustainable and the order under challenge is liable to be set aside because while dismissing the writ petition, the learned Single Judge ignored the true import of para 5 of Notification dated 3-12-2003. Sri Saka Mohan Rao argued that the appellant was not having permanent driving licence and one year's experience of driving tractor and, therefore, the learned Single Judge did not commit any error by refusing to entertain his prayer.

We have given serious thought to the arguments of the learned counsel and carefully perused the record. We have also gone through the averments contained in the affidavit dated February 7, 2006 of Sri B.V.Trinadha Rao, Executive Director of the Corporation, which learned counsel for the respondents has today filed in the Court.

For the purpose of appreciating the grievance of the appellant in a correct perspective, it will be useful to notice the contents of notification dated 3rd December, 2003, the relevant portions of which are reproduced below:

"PRAKASAM DISTRICT SCHEDULED CASTE

COOPERATIVE CORPORATION LIMITED

ONGOLE NO.J.517

RC.No.M.4/142/03 Dated 03-12-2003

NOTIFICATION

-

-

Applications are invited from the unemployed candidates who desired to get employment for various Self Employment Schemes shown below under financial help of N.S.F.D.C. for the year 2003-2004.

S.No.	Name of Scheme	Value of Scheme in Rs. Lakhs	Total Units	Share of candidate	Value in Rs. Lakhs.
1	Auto Diesel	1.00	35	Rs.5,000/-	35.00
2	Pickup Van Disel	1.80	7	Rs.9,000/-	12.60
3	Auto Mobile Servicing Unit	0.60	5	Rs.3,000/-	3.00
4	Mini Dairy (only for women)	0.60	37	Rs.3,000/-	22.20
5	Tent House	1.00	10	Rs.5,000/-	10.00
6	Tractor	4.22 Total	4----98-----	Rs.21,100/-	16.88----------99.68--------

ELIGIBILITIES

1. Applicants should be unemployed Scheduled Caste in Prakasam District.

2. The age of the applicants should be completed 18 years and below 45 years as on 30.11.2003.

3. The annual income of the applicants should not be exceeded Rs.40,000/- for the applicants belonging to Rural areas andRs.55,000/- for the Urban areas.

4. For the aforesaid schemes Rs.10,000/- will be given as subsidy. The successful candidates have to pay 5% on the value of the unit to this Corporation by way of demand draft.

5. The applicant, who wants to apply for the schemes of Auto and Pickup Van, should necessarily possess permanent driving licence and badge. Applicant should possess one year experience from the date of obtaining permanent licence.

Xx xx xx xx

Sd/- M.T. Krishnak Babu

District Collector/President”

A reading of the above reproduced extracts of the notification issued by the Corporation shows that applications are invited from the umemployed Schedule Caste candidates who were desirous of getting employment under various Self Employment Schemes. These schemes included financial help for purchase of Auto Diesel, Pickup Van Diesel, Auto Mobile Servicing Unit, Mini Diary (only for women), Tent House and Tractor. In terms of paragraph 5 of the notification, an applicant who was desirous of seeking financial assistance in relation to scheme of Auto and Pickup Van was required to possess permanent driving licence and badge and one year's experience from the date of obtaining permanent licence. This paragraph does not make a mention of tractor and there is nothing in the language of that paragraph from which it can be inferred that a candidate applying for grant of loan for tractor was required to possess permanent driving licence and badge and one year's experience. Therefore, the reason put forward by the respondents to justify the rejection of the appellant's application for grant of loan cannot but be termed as irrational and extraneous to the issue of grant of loan for tractor.

A perusal of the order under challenge shows that the learned Single Judge did not advert to the language of paragraph 5 of Notification dated December 3, 2003 and dismissed the writ petition by assuming that the appellant was required to possess permanent driving licence and one year's experience so as to be treated as eligible for the purpose of grant of loan for Tractor. In our opinion, the view taken by the learned Single Judge on the ambit and scope of paragraph 5 of Notification dated 3.12.2003 is clearly erroneous because, as mentioned above, that paragraph does not make a mention of tractor. In our view, there was no justification to apply the conditions enumerated in para 5 of Notification dated 3-12-2003 to the application made by the appellant and the authorities concerned gravely erred in refusing to entertain the same.

In the result, the appeal is allowed. The order of the learned Single Judge is set aside. The writ petition filed by the appellant is allowed. Joint Collector/District Collector, Ongole are directed to reconsider the appellant's application and sanction loan in his favour within a period of fifteen days from the date of presenting of certified copy of this order.

G.S.SINGHVI, C.J.

February 13, 2006

G.BHAVANI PRASAD, J.

GRR/vtv/svs